

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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EURITA BUTLER,

Plaintiff,

Case No.: 08/CIV 4728

-against-

COHEN & SLAMOWITZ, LLP,

Defendant.  
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**ANSWER OF COHEN & SLAMOWITZ, LLP  
WITH AFFIRMATIVE DEFENSES AND COUNTERCLAIM**

Defendant COHEN & SLAMOWITZ, LLP (the “Defendant”), by and through their counsel, The Law Offices of Michael G. Mc Auliffe, Esq., as and for their Answer to the Plaintiff’s complaint, respectfully set forth and represent as follows:

1. Deny the allegations contained in paragraphs 8, 9,10, 11, 13, 14, 15, 16, 18, 19, 21, 22, 23, 24 and the “Wherefore Clause” of the Complaint.
2. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the Complaint.
3. Admit the allegations contained in paragraphs 5 of the Complaint.
4. With regard to the allegations set forth in paragraphs 1, 2 and 4 of the Complaint, Defendant submits that said paragraphs call for a legal conclusion, and accordingly, refer all matters of law and legal interpretation to the Court. To the extent that a response is required, Defendant denies knowledge and information sufficient to form a belief as to the allegations set forth therein.
5. With regard to the allegations set forth in paragraph 6 of the Complaint, Defendant admits that a letter was sent and submits that said document speaks for itself and

refers all matters of law and legal interpretation to the Court. Defendant denies knowledge and information sufficient to form a belief as to all other allegations set forth therein.

6. With regard to the allegations set forth in paragraph 7 of the Complaint, Defendant admits receipt of a dispute letter and that Plaintiff requested the original creditor's address and submits that said documents speaks for itself and refers all matters of law and legal interpretation to the Court Defendant denies knowledge and information sufficient to form a belief as to all other allegations set forth therein.

7. With regard to the allegations set forth in paragraph 9 of the Complaint, Defendant admits that the validation letter was an attempt to collect a debt and submits that said document speaks for itself and refers all matters of law and legal interpretation to the Court. Defendant denies knowledge and information sufficient to form a belief as to all other allegations set forth therein.

8. Defendant repeats, and reiterates the responses to the allegations set forth and referenced in paragraphs 12, 17 and 20 of the Complaint herein.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

9. The causes of action set forth in the Complaint fails to state a claim upon which relief may be granted.

10. By virtue of the foregoing, the Complaint should be dismissed, with prejudice.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

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11. Defendant repeats, reiterates and realleges each and every response contained in paragraphs "1" through "10", inclusive, with the same force and effect as if set forth at length herein.

12. The Plaintiff's causes of action are not supported by the documentary evidence.

13. By virtue of the foregoing, the Complaint should be dismissed as against the Defendants.

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**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

14. Defendant repeats, reiterates and realleges each and every response contained in paragraphs "1" through "13", inclusive, with the same force and effect as if set forth at length herein.

15. If the Plaintiff has incurred any damages herein, it is as a result of their own culpable conduct, and not that of the Defendants.

16. By virtue of the foregoing, the Complaint should be dismissed as against the Defendants.

**AS AND FOR A FIRST COUNTERCLAIM AGAINST PLAINTIFF**

17. Defendant repeats, reiterates and realleges each and every response contained in paragraphs "1" through "16", inclusive, with the same force and effect as if set forth at length herein.

18. Defendant submits that the instant action has been interposed by Plaintiff in bad faith and for the purpose of harassment.

19. By virtue of the foregoing, pursuant to 15 U.S.C. 1692k(a)(3), Defendants are entitled to an award of reasonable attorneys fees and costs incurred herein.

**WHEREFORE**, Defendant respectfully demands judgment dismissing the Complaint herein in its entirety, and granting Defendant judgment on its counterclaim, together with such other, further and different relief as this Court deems just and proper.

Dated: Melville, New York  
June 12, 2008

Law Offices of Michael G. Mc Auliffe, Esq.  
Counsel to Cohen & Slamowitz, LLP.

By: /s/ Michael G. Mc Auliffe  
Michael G. Mc Auliffe, Esq. (MGM3024)  
48 South Service Road, Suite 102  
Melville, New York 11747  
(631) 465-0044

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**AFFIDAVIT OF SERVICE BY FIRST CLASS MAIL**

STATE OF NEW YORK     )  
                                      )  
COUNTY OF SUFFOLK    )

Andrea Savin, being duly sworn, deposes and says:

I am not a party in the above referenced action, am over 18 years of age and reside in Nassau County, New York. On June 12, 2008, I served a copy of the within **“ANSWER OF COHEN & SLAMOWITZ WITH AFFIRMATIVE DEFENSES AND COUNTERCLAIM and RULE 7.1 STATEMENT”**, by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the entities set forth below, at the last known address set forth after each name as follows:

Abraham Kleinman, Esq.  
Kleinman, LLC.  
626 RexCorp Plaza  
Uniondale, NY 11556-0626

/s/ Andrea Savin  
Andrea Savin

Sworn to before me on this 12<sup>th</sup> day  
of June, 2008

/s/ Michael G. Mc Auliffe  
NOTARY PUBLIC